

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 8957

UNITED STATES OF AMERICA,  
Plaintiff,

v.

Manuel Rafael ZAYAS-Montoya  
Defendant.

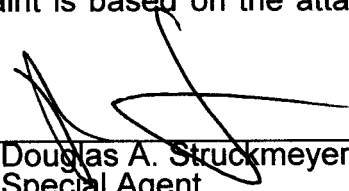
Magistrate Case No.:

COMPLAINT FOR VIOLATION OF  
21 U.S.C. § 952 and 960  
Importation of a Controlled Substance  
(Felony)

The undersigned complainant being duly sworn states:

On or about December 3, 2007, within the Southern District of California, defendant Manuel Rafael ZAYAS-Montoya did knowingly and intentionally import approximately 42.72 kilograms (93.98 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

  
Douglas A. Struckmeyer  
Special Agent  
U.S. Immigration & Customs  
Enforcement

SWORN TO, BEFORE ME, AND SUBSCRIBED IN MY PRESENCE THIS 4<sup>th</sup>  
DAY OF DECEMBER, 2007.

  
Peter C. Lewis  
U.S. MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA  
2 v.  
3 Manuel Rafael ZAYAS-Montoya

4 STATEMENT OF FACTS

5 This complaint is based upon the personal observations, investigation and  
6 information provided to U.S. Immigration and Customs Enforcement Special Agent  
7 Douglas Struckmeyer.

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9 On December 3, 2007, Manuel Rafael ZAYAS-Montoya entered the United  
10 States at the Calexico, California West Port of Entry. ZAYAS was the driver and sole  
11 occupant of a 1995 Lincoln Mark VIII passenger car registered in his name. Customs  
12 and Border Protection Officer (CBPO) W. Gerhart took a negative Customs declaration  
13 from ZAYAS. CBPO Gerhart observed that ZAYAS' hands were trembling and he was  
14 avoiding eye contact. While performing a primary search of the vehicle, CBPO Gerhart  
15 observed what he believed to be modifications in the trunk. CBPO Gerhart referred  
16 ZAYAS to secondary for further inspection.

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19 CBPO J. Bejarano encountered the vehicle in the secondary inspection area and  
20 also received a negative declaration from ZAYAS. Canine Enforcement Officer (CEO)  
21 S. Parrish was conducting a lot sweep at the time. CEO Parrish had his Narcotic  
22 Detector Dog (NDD) sweep the vehicle. The NDD alerted to the presence of an odor of  
23 a controlled substance near the front bumper of the vehicle.

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25 A further search of the vehicle resulted in the discovery of 44 packages wrapped  
26 in brown postal tape. Twenty-one of the packages were discovered in the front bumper  
27 and twenty-three more were found in the rear bumper. The packages contained a  
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1 green leafy substance which field-tested positive for marijuana. The total weight of the  
2 packages was 42.72 kilograms.

3 Special Agent's (S/A) Douglas Struckmeyer Rafael Silva interviewed ZAYAS.  
4 S/A Struckmeyer furnished ZAYAS with his constitutional rights per Miranda in Spanish  
5 with S/A Silva present. ZAYAS orally waived his rights, as well as signing the written  
6 waiver of rights, agreeing to make a statement.  
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8 ZAYAS stated that he knew the vehicle contained marijuana. He said that he  
9 was hired to drive the vehicle into the United States and that he was going to be paid  
10 \$1,000 upon his return to Mexico.  
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12 ZAYAS was arrested by ICE Agents for violations of 21 USC 952 and 960,  
13 Importation of Marijuana. ZAYAS was booked into the Imperial County Jail, El Centro,  
14 California, pending an appearance in U.S. Magistrate Court.  
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